

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JEWEL UPSHAW, Individually and as the	)	
Personal Representative of the Estate	)	
of Zena Ray Upshaw,	)	
Plaintiff,	)	
	)	No. 1:19-cv-341
-v-	)	
	)	Honorable Paul L. Maloney
SSJ GROUP, LLC, <i>et al.</i> ,	)	
Defendants.	)	
	)	

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**ORDER REGARDING MOTION FOR LEAVE TO SETTLE WRONGFUL DEATH  
CLAIM AND TO DISTRIBUTE PROCEEDS**

Plaintiff Jewel Upshaw filed a motion seeking leave to settle the lawsuit against the three remaining Defendants—SSJ Group, Deltaplex Arena, and Life EMS. (ECF No. 292.) Because this lawsuit involves a wrongful death claim, the Court must review the settlement and approve the proposed distribution of proceeds. The Court and the parties are familiar with the procedural requirements and substantive law as the Court has already considered and resolved a similar motion regarding a different defendant. (*See* ECF Nos. 245 and 227.) Plaintiff separately filed a motion to seal the two settlement agreements and the proposed distribution of funds. The parties wish to keep the terms of the settlement confidential.

The Court notes that there are pending dispositive motions filed by two of the remaining Defendants. (ECF Nos. 261 and 265.) In addition, the trial for this case is scheduled to begin on October 17, 2022, with a final pretrial conference scheduled for October 3, 2022. The Michigan Wrongful Death Act, which applies here, requires the Court

to hold a hearing for the purpose of approving or rejecting a proposed settlement. *See Mich. Comp. Laws § 600.2922(5.)*

The Court has reviewed the pending motion and proposed distribution of proceeds. The Court identifies two concerns that must be addressed before the hearing. To be clear, the Court has made no decisions about the motion and the parties should not assume that addressing the two concerns will result in the Court granting the motion.

First, Plaintiff asks the Court to approve litigation costs advanced by Hilliard Martinez and Gonzales. As part of the previous settlement agreement, the Court approved a request for the costs of litigation advanced by the same firm. Plaintiff must file documentation to support this current request. The documentation must demonstrate that the costs requested in this motion are different from the costs already approved. To this end, Plaintiff will need to provide a sufficiently detailed bill of costs incurred or advanced over the course of the entire litigation.

Second, Plaintiff asks the Court to approve attorney fees, which includes a distribution of funds to Morgan and Meyers, PLC and to Ben Crump Law, PLLC. No attorney from either of these two firms has made an appearance in this lawsuit. The Court will not approve the requested attorney fees for those firms.

Accordingly, The Court **CANCELS** the Final Pretrial Conference and **NOTICES A HEARING** for this pending motion. Instead of the Final Pretrial Conference, the Court will use that time to hold a hearing on Plaintiff's motion to approve the settlement and for distribution of proceeds which will take place on Monday, October 3, 2022, at 9:00 a.m. at 174 Federal Building, 410 W. Michigan Ave., Kalamazoo, Michigan. Plaintiff must file the requested documentation no later than September 13, 2022.

**IT IS SO ORDERED.**

Date: August 16, 2022

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge